IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPLICATION NO.31 OF 2002

The Commissioner of Income Tax ..Applicant
Vs.
Industrial Consulting Bureau Ltd. ..Respondent

Mr.A.S.Rao, A.G.P. for the Applicant.
Mr.Andhyarjuna for the Respondent.

CORAM :- DR.S.RADHAKRISHNAN &
V.C.DAGA, JJ.
DATE : 16TH APRIL, 2007

P.C.

1. Heard the learned Counsel for the parties. In the above matter the following substantial question of law is sought to be raised:

> "Whether on the facts and in the circumstances of the case, the tribunal was right in law in holding that passing of an order by the Commissioner of Income Tax (Appeals) results in the total merger of the Assessing Officer's order with the Commissioner of Income Tax (A) which thereby ousts the jurisdiction of the Commissioner of Income Tax in exercising his power under Section 263 even in respect of issues which were not the subject matter of Appeal before the Commissioner of Income Tax (Appeals)."

2. Both the learned Counsel for the parties fairly state that the above question of law is squarely covered in the case of **Commissioner of Income Tax Vs. V.P.Muncherji & Co. (1987) 167 ITR 671** in favour of the Assessee and against the Revenue. In view thereof, the Application stands dismissed.

(V.C.DAGA,J.) **(DR.S.RADHAKRISHNAN,J.)**